

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOSEPH W. DIEKEMPER,

Appellant,

vs.

ROBERT EGGMAN, *Trustee*,

Respondent.

Case No. 12-cv-1219-JPG
Appeal from Bankr. Case No. 04-32094

MEMORANDUM AND ORDER

This matter comes before the Court on Diekemper's motion for leave to proceed on appeal *in forma pauperis* (Doc. 18).

A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) & (3); Fed. R. App. P. 24(a)(3)(A). A frivolous appeal cannot be made in good faith. *Lee v. Clinton*, 209 F.3d 1025, 1026-27 (7th Cir. 2000). The test for determining if an appeal is in good faith or not frivolous is whether any of the legal points are reasonably arguable on their merits. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (citing *Anders v. California*, 386 U.S. 738 (1967)); *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

For the reasons explained in this Court's order affirming the bankruptcy court (Doc. 15), no reasonable person could argue that the bankruptcy court committed clear error in finding Diekemper acted in bad faith or that Diekemper was not financially dependent on his teenage son. Accordingly, the Court **CERTIFIES** that this appeal is not taken in good faith and accordingly **DENIES** the motion for leave to proceed on appeal *in forma pauperis* (Doc. 18).

IT IS SO ORDERED.

DATED: April 25, 2013

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT COURT